



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,850	08/22/2003	Uwe Mellenthin	H01.2B-11123-US01	1502
490 7590 05/08/2007 VIDAS, ARRETT & STEINKRAUS, P.A. 6109 BLUE CIRCLE DRIVE SUITE 2000 MINNETONKA, MN 55343-9185			EXAMINER DAYE, CHELCIE L	
			ART UNIT 2161	PAPER NUMBER
			MAIL DATE 05/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/646,850

Applicant(s)

MELLENTHIN ET AL.

Examiner

Chelcie Daye

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is issued in response to applicant's RCE filed March 06, 2007.
2. Claims 1-13 and 15-21 are presented. Claim 21 is added and claim 14 remains cancelled.
3. Claims 1-13 and 15-21 are pending.
4. Applicant's arguments filed March 06, 2007, have been fully considered but they are not persuasive.

Continued Examination Under 37 CFR 1.114

5. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 06, 2007 has been entered.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5,7-8,10-13,and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catan (US Patent Application No. 20020143860) filed on March 31, 2001, in view of Curry (US Patent No. 6,814,293) filed on April 17, 2001, and further in view of "Applicant Admitted Prior Art", paragraphs [0003]-[0006]; hereinafter referred to as AAPA.

Regarding Claim 1, Catan discloses a method for handling data of a proportioning device comprising the steps of:

providing the proportioning device ([0058], lines 1-3, Catan)¹, in a production process ([0064], lines 1-8 and [0067], Catan), with at least one transponder ([0058], lines 5-7, Catan) for contactlessly storing data using a writing device ([0060], lines 12-20, Catan)² and from which data can be contactlessly read out using a reading device ([0059], lines 1-3, Catan)³,

storing production-related specific data about the proportioning device ([0132], Catan), in the production process ([0064], lines 1-8 and [0067], Catan), into the transponder using the writing device ([0060], lines 12-20, Catan), and

fully or partially reading out the stored production related data using the reading device ([0061], lines 1-15, Catan). However, Catan is silent with respect to storing application-related data about the proportioning device in the

¹ Examiner Notes: The "MRL" device corresponds to the proportioning device, because the MRL device houses and performs the same functions as those outlined for the proportioning device (i.e. a transponder which stores data by a writing device and reads data by a reading device, contactlessly, See Fig.1).

² Examiner Notes: The "computer" corresponds to the writing device. Also, the act of contactlessly storing data is represented by a wireless connection.

transponder using the writing device and during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored application related data using the reading device. On the other hand, Curry discloses storing application-related data about the proportioning device in the transponder using the writing device (column 7, lines 24-34 and column 17, lines 2-7, Curry) and during use of the proportioning device or during maintenance or repair of the proportioning device (column 20, lines 36-39, Curry), fully or partially reading out the stored application related data using the reading device (column 7, lines 15-23 and column 13, lines 60-65, Curry). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Curry's teachings into the Catan proportioning device. Catan and Curry are analogous art because they are from the same field of endeavor of establishing a relationship among data and managing it with frequency (i.e. transponders). A skilled artisan would have been motivated to combine, as suggested by Curry at column 17, lines 40-46, in order to authorize the system to communicate data with other components such as networks, modems, and interfaces. By applying this information this allows the device to be self-contained ensuring that the needed data will be available with more ease. However, the combination of Catan in view of Curry are silent with respect to the proportioning device being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes,

³ Examiner Notes: The "portable reader" corresponds to the reading device. Also, the act of contactlessly

manually operated dispensers, and motor-operated dispensers. On the other hand, Applicant Admitted Prior Art discloses the proportioning device being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers ([0003], lines 1-4, AAPA). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate AAPA's teachings into the Catan in view of Curry system. Catan, Curry, and AAPA are analogous art because they are from the same field of endeavor of handling proportioning devices. A skilled artisan would have been motivated to combine in order to allow the dispenser to be operated at a capacity suitable for the system as well as more convenient for the user.

Regarding Claim 2, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein the proportioning device is provided with a passive transponder (column 10, lines 64-67, Curry)⁴.

Regarding Claim 3, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein at a beginning stage of

reading is done by wireless links.

⁴ Examiner Notes: The use of a battery for energy storage is acceptable, but the battery can also be replaced with capacitor, which is inductively charged (i.e. passive).

assembling the proportioning device, a product component is provided with the transponder ([0088], lines 1-6, Catan)⁵.

Regarding Claim 4, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein the transponder is encapsulated in the proportioning device ([0061], lines 1-4, Catan)⁶.

Regarding Claim 5, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein an article number ([0076], Catan) and/or a serial number of the proportioning device ([0006], lines 3-6, Catan) and/or a production order number ([0132], lines 1-4, Catan) and/or a batch number is/are stored into the transponder as production-related specific data.

Regarding Claim 7, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein sales data is stored (column 7, lines 29-31, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 8, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein inventory data of the user is stored

⁵ Examiner Notes: "Components of the resource retrieval technology" corresponds to the product component, and the assembly process is represented by the "using the context to filter a large number of options down" (which is gathering the context together and organizing them downward). Lastly, by filtering the context downward, that means the process starts from the top (i.e. beginning) to the bottom.

(column 7, lines 29-31, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 10, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein usage data is stored (column 14, lines 36-43, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 11, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein maintenance and/or repair data is stored (column 20, lines 36-39, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 12, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein the production-related specific data is stored to be fully or partially invariable into the transponder ([0112], lines 1-4, Catan)⁷.

Regarding Claim 13, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein the application-related

⁶ Examiner Notes: "Affixed" corresponds to encapsulated.

⁷ Examiner Notes: By allowing the data to be generated invariably, at the least coincides with the partial invariability.

specific data is stored to be fully or partially variable into the transponder (column 17, lines 30-34, Curry)⁸.

Regarding Claim 15, the combination of Catan in view of Curry, and further in view of AAPA, disclose a proportioning device comprising: a proportioning device selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers ([0003], lines 1-4, AAPA), a transponder ([0058], lines 5-7, Catan) for contactlessly storing data using a writing device ([0060], lines 12-20, Catan) and from which data can be contactlessly read out using a reading device ([0059], lines 1-3, Catan), the proportioning device having the transponder affixed thereto (Fig.2; [0061], lines 1-4, Catan).

Regarding Claim 16, the combination of Catan in view of Curry, and further in view of AAPA, disclose the proportioning device wherein the transponder is a passive transponder (column 10, lines 64-67, Curry).

Regarding Claim 17, the combination of Catan in view of Curry, and further in view of AAPA, disclose the proportioning device wherein the transponder is encapsulated in a casing of the proportioning device ([0061], lines 3-4, Catan).

⁸ Examiner Notes: By allowing the applications to interchange makes them variable.

Regarding Claim 18, the combination of Catan in view of Curry, and further in view of AAPA, disclose the proportioning device wherein the transponder is disposed inside the casing of the proportioning device or is injected into the casing of the proportioning device (column 13, lines 54-56, Curry)⁹.

Regarding Claim 19, the combination of Catan in view of Curry, and further in view of AAPA, disclose the proportioning device wherein the production-related specific data can be stored to be fully or partially invariable in the transponder ([0112], lines 1-4, Catan).

Regarding Claim 20, the combination of Catan in view of Curry, and further in view of AAPA, disclose the proportioning device wherein the application-related specific data can be stored to be fully or partially variable in the transponder (column 17, lines 30-34, Curry).

Regarding Claim 21, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method wherein the production-related data is selected from the group consisting of article number ([0076], Catan), serial

⁹ Examiner Notes: "Includes" corresponds to injected.

number ([0006], lines 3-6, Catan), production order number ([0132], lines 1-4, Catan), and batch number.

8. Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catan (US Patent Application No. 20020143860) filed on March 31, 2001, in view of Curry (US Patent No. 6,814,293) filed on April 17, 2001 and further in view of "Applicant Admitted Prior Art", paragraphs [0003]-[0006]; hereinafter referred to as AAPA, and further in view of Jansen (US Patent No. 6,778,917) filed on November 1, 1999.

Regarding Claim 6, the combination of Catan in view of Curry, and further in view of AAPA, disclose the method of storing production-related specific data ([0063], lines 1-7, Catan). However, Catan in view of Curry, and further in view of AAPA, are silent with respect to the data being initial calibration. On the other hand, Lee discloses disclosing the data being initial calibration (column 4, lines 37-55, Jansen). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Jansen's calibration system into the Catan in view of Curry, and further in view of AAPA system. A skilled artisan would have been motivated to combine, as suggested by Jansen at columns 2-3, lines 60-67 and 1-2, respectively, in order to alleviate the tedious and erroneous task of inputting the calibration data via a keyboard. Thereby, providing a system for operating a metering system with improved operating parameters.

Regarding Claim 9, the combination of Catan in view of Curry, further in view of AAPA, and further in view of Jansen, disclose the method wherein calibration data of the user is stored (column 4, lines 37-55 and column 5, lines 15-22, Jansen) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

AN ALTERNATE REJECTION:

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-5,7-8,10-13,and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catan (US Patent Application No. 20020143860) filed on March 31, 2001, in view of Curry (US Patent No. 6,814,293) filed on April 17, 2001, and further in view of Jansen (US Patent No. 6,778,917) filed November 1, 1999.

Regarding Claim 1, Catan discloses a method for handling data of a proportioning device comprising the steps of:

providing the proportioning device ([0058], lines 1-3, Catan)¹⁰, in a production process ([0064], lines 1-8 and [0067], Catan), with at least one transponder ([0058], lines 5-7, Catan) for contactlessly storing data using a writing device ([0060], lines 12-20, Catan)¹¹ and from which data can be contactlessly read out using a reading device ([0059], lines 1-3, Catan)¹²,

storing production-related specific data about the proportioning device ([0132], Catan), in the production process ([0064], lines 1-8 and [0067], Catan), into the transponder using the writing device ([0060], lines 12-20, Catan), and

fully or partially reading out the stored production related data using the reading device ([0061], lines 1-15, Catan). However, Catan is silent with respect to storing application-related data about the proportioning device in the transponder using the writing device and during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored application related data using the reading device. On the other hand, Curry discloses storing application-related data about the proportioning device in the transponder using the writing device (column 7, lines 24-34 and column 17, lines 2-7, Curry) and during use of the proportioning device or during maintenance or repair of the proportioning device (column 20, lines 36-39, Curry), fully or partially reading out the stored application related

¹⁰ Examiner Notes: The "MRL" device corresponds to the proportioning device, because the MRL device houses and performs the same functions as those outlined for the proportioning device (i.e. a transponder which stores data by a writing device and reads data by a reading device, contactlessly, See Fig. 1).

¹¹ Examiner Notes: The "computer" corresponds to the writing device. Also, the act of contactlessly storing data is represented by a wireless connection.

data using the reading device (column 7, lines 15-23 and column 13, lines 60-65, Curry). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Curry's teachings into the Catan proportioning device. Catan and Curry are analogous art because they are from the same field of endeavor of establishing a relationship among data and managing it with frequency (i.e. transponders). A skilled artisan would have been motivated to combine, as suggested by Curry at column 17, lines 40-46, in order to authorize the system to communicate data with other components such as networks, modems, and interfaces. By applying this information this allows the device to be self-contained ensuring that the needed data will be available with more ease. However, the combination of Catan in view of Curry are silent with respect to the proportioning device being of a portable or stationary and selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers. On the other hand, Jansen discloses the proportioning device being of a portable or stationary design (column 5, lines 40-45, Jansen) and selected from the group consisting of manually operated pipettes, motor-operated pipettes (column 6, lines 8-25, Jansen), manually operated dispensers, and motor-operated dispensers. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Jansen's teachings into the Catan in view of Curry system. Catan, Curry, and Jansen are analogous art because they are from the same field of

¹² Examiner Notes: The "portable reader" corresponds to the reading device. Also, the act of contactlessly

endeavor of a calibration system. A skilled artisan would have been motivated to combine, as suggested by Jansen at column 2, lines 65-67 and 1-3, respectively, in order to alleviate from previous downfalls of pipette devices such as tediousness and errors. Therefore, by allowing the proportioning device to be motor-operated pipette improves operating parameters, procedures, and programs.

Regarding Claim 2, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein the proportioning device is provided with a passive transponder (column 10, lines 64-67, Curry)¹³.

Regarding Claim 3, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein at a beginning stage of assembling the proportioning device, a product component is provided with the transponder ([0088], lines 1-6, Catan)¹⁴.

reading is done by wireless links.

¹³ Examiner Notes: The use of a battery for energy storage is acceptable, but the battery can also be replaced with capacitor, which is inductively charged (i.e. passive).

¹⁴ Examiner Notes: "Components of the resource retrieval technology" corresponds to the product component, and the assembly process is represented by the "using the context to filter a large number of options down" (which is gathering the context together and organizing them downward). Lastly, by filtering the context downward, that means the process starts from the top (i.e. beginning) to the bottom.

Regarding Claim 4, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein the transponder is encapsulated in the proportioning device ([0061], lines 1-4, Catan)¹⁵.

Regarding Claim 5, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein an article number ([0076], Catan) and/or a serial number of the proportioning device ([0006], lines 3-6, Catan) and/or a production order number ([0132], lines 1-4, Catan) and/or a batch number is/are stored into the transponder as production-related specific data.

Regarding Claim 6, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein data of an initial calibration (column 4, lines 37-55, Jansen) is stored into the transponder as production-related specific data ([0063], lines 1-7, Catan).

Regarding Claim 7, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein sales data is stored (column 7, lines 29-31, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

¹⁵ Examiner Notes: "Affixed" corresponds to encapsulated.

Regarding Claim 8, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein inventory data of the user is stored (column 7, lines 29-31, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 9, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein calibration data of the user is stored (column 4, lines 37-55 and column 5, lines 15-22, Jansen) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 10, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein usage data is stored (column 14, lines 36-43, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 11, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein maintenance and/or repair data is stored (column 20, lines 36-39, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 12, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein the production-related

specific data is stored to be fully or partially invariable into the transponder ([0112], lines 1-4, Catan)¹⁶.

Regarding Claim 13, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein the application-related specific data is stored to be fully or partially variable into the transponder (column 17, lines 30-34, Curry)¹⁷.

Regarding Claim 15, the combination of Catan in view of Curry, and further in view of Jansen, disclose a proportioning device comprising: a proportioning device selected from the group consisting of manually operated pipettes, motor-operated pipettes (column 6, lines 8-25, Jansen), manually operated dispensers, and motor-operated dispensers, a transponder ([0058], lines 5-7, Catan) for contactlessly storing data using a writing device ([0060], lines 12-20, Catan) and from which data can be contactlessly read out using a reading device ([0059], lines 1-3, Catan), the proportioning device having the transponder affixed thereto (Fig.2; [0061], lines 1-4, Catan).

Regarding Claim 16, the combination of Catan in view of Curry, and further in view of Jansen, disclose the proportioning device wherein the transponder is a passive transponder (column 10, lines 64-67, Curry).

¹⁶ Examiner Notes: By allowing the data to be generated invariably, at the least coincides with the partial

Regarding Claim 17, the combination of Catan in view of Curry, and further in view of Jansen, disclose the proportioning device wherein the transponder is encapsulated in a casing of the proportioning device ([0061], lines 3-4, Catan).

Regarding Claim 18, the combination of Catan in view of Curry, and further in view of Jansen, disclose the proportioning device wherein the transponder is disposed inside the casing of the proportioning device or is injected into the casing of the proportioning device (column 13, lines 54-56, Curry)¹⁸.

Regarding Claim 19, the combination of Catan in view of Curry, and further in view of Jansen, disclose the proportioning device wherein the production-related specific data can be stored to be fully or partially invariable in the transponder ([0112], lines 1-4, Catan).

Regarding Claim 20, the combination of Catan in view of Curry, and further in view of Jansen, disclose the proportioning device wherein the application-related specific data can be stored to be fully or partially variable in the transponder (column 17, lines 30-34, Curry).

invariability.

Regarding Claim 21, the combination of Catan in view of Curry, and further in view of Jansen, disclose the method wherein the production-related data is selected from the group consisting of article number ([0076], Catan), serial number ([0006], lines 3-6, Catan), production order number ([0132], lines 1-4, Catan), and batch number.

Response to Arguments

Applicant argues, Catan does not provide, "a proportioning device, in a production process, with at least one transponder", and in particular the applicant argues that "the Catan citation is directed to promotional information while a user is shopping, not a production process".

Examiner respectfully disagrees. As stated in the action above, Catan discloses at paragraph [0058], lines 1-7, wherein "a MRL device T is prompted by, and transmits data to, a portable reader or a fixed terminal with an integrated reading device. Note that the reader may be integrated into another appliance, such as a personal digital assistant (PDA) or cell phone or other. In an embodiment, the MRL device T is a radio transponder that generates RF links with readers. The RF links may be momentary according to known transponder technology". Examiner interprets the MRL device to correspond to the proportioning device, because the MRL device houses and performs the same functions as those outlined within the present application for the proportioning

¹⁷ Examiner Notes: By allowing the applications to interchange makes them variable.

device (i.e., a transponder which stores data by a writing device and reads data by a reading device, contactlessly, See Fig.1). Examiner also interprets the device T, which is a transponder to correspond to the at least one transponder. Lastly, Catan discloses at paragraph [0064], *"wherein a process may be implemented based on the hardware environment that allows a user to receive targeted promotional information through a fixed terminal or portable reader while shopping, for example. Assume the user chances upon a display, advertisement, or purchasable product and is interested in purchasing or learning more about it"*, along with paragraph [0067], wherein *"the user's reader acquires a unique identifier from the MRL device T, a unique identifier indicating the owner of the reader, and an address corresponding to the network server...For example, the network server might be owned by the manufacturer of the tennis shoes. The interaction process may look up information about the particular pair of tennis shoes whose MRL device T the user scanned, the date of manufacture, the style, the store to which it was shipped, and so on. The interaction process may also acquire personal profile information about the user from its own internal database or a subscription to a third party database stored on a further network server. The personal profile information may contain such data as the style (contemporary or traditional), amenability to participant sports and type of sports, color preferences, etc. Included among the information about the particular pair of shoes may be, for example, that they came from a lot that has been recalled"*. Examiner interprets the process as described

¹⁸ Examiner Notes: "Includes" corresponds to injected.

above to correspond to the production process. As a result, the argued limitation above has been fully disclosed.

Applicant argues, Catan does not teach, "storing production-related data about the proportioning device, in the production process, into the transponder using the writing device".

Examiner respectfully disagrees. As stated in the action above, Catan discloses at paragraph [0132], wherein *"the data acquired by the reader may include simply a unique identifier of the device or it could contain standardized symbols indicating product code, serial number, retailer to which the product was shipped, etc"*. Examiner interprets the product code and serial number to correspond to the production-related data and the reader corresponds to the facility in which the data is stored (side note: the reader storing the data is further explained within paragraph [0128], wherein *"the reader may store the acquired data in its memory M and optionally, the reader may indicate the fact that the data may be stored locally and request acknowledgement"*). Therefore, the argued limitation above has been fully disclosed.

Applicant argues, Curry does not teach, "during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device".

Examiner respectfully disagrees. As stated in the action above, Curry discloses at column 7, lines 24-34, wherein *"In addition to the optical scan module, the user wears*

a first peripheral module on the wrist, and a second peripheral module on the other arm. As will be clear from FIG. 1A, the scan module emits a scanning laser beam, which the user directs towards a bar code symbol to be read. The bar code symbol may be printed on or otherwise attached to an article, details of which the user wishes to obtain, for example, for inventory or for sale purposes". Examiner interprets the reading in of the bar code symbol for inventory or sales purposes to correspond to application-related data, and the examiner further corresponds the reading to correspond to the storing of the data. As a result, the argued limitation above has been fully disclosed.

Applicant argues, Curry does not teach, "during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device".

Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In particular, applicant argues Curry does not teach fully or partially reading out the stored production related data and the application related data. However, as stated within the action above, Curry was relied upon to disclose the limitation of 'reading out the stored application related data using the reading device'. On the other hand, Catan was relied upon for disclosing the limitation

Art Unit: 2161

of 'reading out the stored production related data using the reading device'. As such, Catan discloses at paragraph [0061], wherein "*the MRL device T may be affixed to any article, for example, a product package. Alternatively, the MRL device T may be attached to a shelf unit or case (not shown) near the product package. The essential feature is that there is some physical or abstract association between an article and a MRL device. A consumer encountering the product may hold the portable reader close to the MRL device T of the product package and activate the reader to read the MRL device T. In response, the MRL device T transmits data stored in the MRL device T of the product package to the reader*". Examiner interprets the use of the consumer holding the portable reader close to the MRL device T of the product package and activating the reader as corresponding to the limitation of 'during use of the proportioning device' and in response to the activation, the MRL device T transmits data stored in the device of the product package to the reader to correspond to the 'full reading out of the stored production related data using the reading device'. Next, Curry discloses at column 7, lines 15-23, wherein "*An optical scan module or main peripheral is detachably mounted on a single finger of a user using a ring-shaped mounting. The detachable mounting may be of any number of conventional types suitably adapted for its ease of use for the desired application. For example, a ball and flexible socket mounting, or a slide mounting could be used. ...In addition to the optical scan module, the user wears a first peripheral module on the wrist, and a second peripheral module on the other arm. As will be clear from FIG. 1A, the scan module emits a scanning laser beam, which the user directs towards a bar code symbol to be read. The bar*

Art Unit: 2161

code symbol may be printed on or otherwise attached to an article, details of which the user wishes to obtain, for example, for inventory or for sale purposes". Examiner interprets the scan module emitting a scanning laser beam, which the user directs towards a bar code symbol to correspond to the limitation of 'during use of the proportioning device' and the scanning of the bar code to obtain inventory or for sale purposes correspond to 'reading out the stored application related data using the reading device'. Examiner further cited column 13, lines 60-65 of the Curry reference to further disclose and explain the fully reading out of the data.

Applicant has stated within the 'Remarks', that they do not understand what reference the Office is citing to, when it refers to the AAPA by paragraph number.

In response, the Applicant Admitted Prior Art (AAPA) is derived from the background within the applicant's present application. The paragraph and line number citations correspond to the publication version of the present application (2004/0215631). However, to further assist the applicant, examiner cites page 1, lines 11-13, of the submitted specification provided by the applicant on 08/22/2003.

Applicant's arguments with respect to claim 6 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues, with respect to the alternate rejection of Catan in view of Curry, and further in view of Jansen, "regardless of what Jansen discloses, it does nothing to address the failure of Catan and Curry".

Examiner respectfully disagrees. Examiner has not relied upon and does not believe Jansen to be needed in order to address the so-called failures of Catan and Curry, because as addressed in the responses above, examiner does not believe the combination of Catan and Curry, fail to disclose any of the argued limitations.

Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chelcie Daye whose telephone number is 571-272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/646,850

Page 26

Art Unit: 2161

Chelcie Daye
Patent Examiner
Technology Center 2100
May 2, 2007


APU MOFIZ
SUPERVISORY PATENT EXAMINER